D.B. CIVIL SPECIAL APPEAL(W)NO.620/2006

Jaipur Zila Sahakari Bhumi Vikas Bank Ltd.
Vs.
Judge, Labour Court, Jaipur & Another

DATE OF JUDGMENT :: 07-03-2007

HON'BLE THE CHIEF JUSTICE SHRI S.N.JHA
HON'BLE SHRI JUSTICE MOHAMMAD RAFIQ

Shri Mahendra Singh, for the appellant.
Shri P.K. Sharma, for the respondent.

This appeal is directed against the order of the learned Single Judge dismissing the writ petition of the appellant. The appellant had filed the writ petition challenging the award of the Labour Court directing reinstatement of respondent no.2 Satish Chandra Bhatnagar.

Facts of the case briefly stated are that the respondent was appointed on daily wage basis and he worked in that capacity from 1.1.1971 to 31.3.1971. On 7.5.1971 he was re-employed in the scale of Rs.110-230 for a fixed term upto 30.6.1971. However, he continued in employment and worked upto 15.10.1971 when his services were terminated. The termination gave rise to dispute. On 15.2.1990, Conciliation Officer submitted failure report. On 30.6.1990 reference was made to the Labour Court. The appellant challenged the reference on the ground of

delay. This Court however declined to interfere in the matter but permitted it to take the plea before the Labour Court. The Labour Court agreed with the appellant that there was unjustified delay in raising dispute but nevertheless passed award in favour of the respondent directing his reinstatement without back-wages. The appellant challenged the award before Single Bench which was dismissed by the order impugned on 25.5.2006. It has come in appeal to the Division Bench.

Shri Mahendra Singh, learned counsel for the appellant submitted that the delay in raising the dispute is relevant consideration in adjudication of the industrial dispute and having held that the dispute had been raised after unjustified delay, the Labour Court committed error in making award of reinstatement in favour of respondent. It was submitted that in any case, having regard to the period of employment of the respondent, spanning over 258 days in all - as found by the Labour Court itself, the reinstatement was not justified.

Shri P.K. Sharma, counsel for the respondent submitted that the respondent had been waiting in the wings for over three decades and interference with the award at this stage would not be proper.

After giving our thoughtful consideration to

the contentions of counsel for the parties, we are of the view that Labour Court was not justified in directing reinstatement of the respondent. Apart from the fact that dispute had been raised after about 18 years, as on the date of award 23 years had passed from the date of termination, and as on date - when the appeal is being heard today - more than 36 years gone by. The appellant declared his age as 51 years in the year 2002 which means that on his own statement, he would be around 56 years old now. We are satisfied that ends of justice would be served by substituting the award of reinstatement by monetary compensation.

As indicated above, the respondent worked for total of 258 days – in the scale of Rs.110-230 at the relevant time. Had the award of the Labour Court been implemented in the year 1994 he would have been reinstated (on the post of clerk) in the scale corresponding to the erstwhile scale of Rs.110-230. May be, as pointed out by counsel for the appellant, the respondent was gainfully employed during this period but, then he had no option but to somehow earn his livelihood. Having regard to the period of actual employment, the post held by the respondent, his gainful employment during the intervening period, we are of the view the ends of justice would be served by awarding compensation of Rs.75,000/- (seventy five thousand) to him. We accordingly modify the award of the Labour Court and

direct that the respondent be paid Rs.75,000/- within one month from today. The order of the learned Single Judge also stands modified to this extent.

The appeal is disposed of in the above terms.

[MOHAMMAD RAFIQ],J. **[S.N.JHA],CJ.**

Praveen